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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Fourth periodic report of States parties due in 1994

Addendum

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND*

[12 February 1997]

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* This document submitted by the Government of the United Kingdom contains information additional to its fourth periodic report relating to the Crown Dependencies of Jersey, Guernsey and the Isle of Man.

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STATES OF JERSEY

1. This is the fourth report submitted by the States of Jersey under article 40, paragraph 1 of the Covenant. Since the third report (CCPR/C/58/Add.6 and supplement CCPR/C/58/Add.12), the measures listed below have been taken which are relevant to the provisions of the Covenant.

Article 2

2. A review of the Administrative Decisions (Review) (Jersey) Law 1982 is currently in progress in order to ascertain whether changes can be made to improve the existing system of administrative appeals to the benefit of those who wish to seek redress of complaints against decisions of committees, departments and officials of the States of Jersey.

Article 3

3. The States have adopted the Wills and Successions (Jersey) Law 1993, which amended the law relating to inheritance, wills of movable and immovable estate, and the administration of estates of deceased persons, and abolished certain rules of customary law. The new legislation provides for equal treatment of males and females in these matters.

4. The States of Jersey have endorsed the principle that all forms of discrimination on grounds of sex, whether against women or men, should be removed. A special committee set up in 1991 to investigate the present situation in the island consulted widely with employer and employee organizations and held two public forums with speakers from the Equal Opportunities Commission of Great Britain. The Special Committee came to the conclusion that a statutory approach to sex discrimination in the workplace might prove unnecessary in a small community such as Jersey if the same objectives could be achieved through persuasion and recommendation. In pursuance of this philosophy, the Special Committee produced a Ten Point Plan for Equal Opportunities for Men and Women in Employment, a Code of Good Practice on Maternity Entitlement in Employment and booklets on sexual harassment in the workplace, and ensured that this package of guidelines and advice was widely disseminated to employers and employees in the island. In its report to the States in March 1994, the Special Committee also recommended that the success of the voluntary approach should be monitored and further analysis of employment practices in the local labour market carried out. This process is currently under way and a review will be undertaken in 1996 to identify whether legislative provision is considered necessary.

Article 4

5. Drafting of local legislation to replace the United Kingdom Prevention of Terrorism legislation, which is presently extended to the island, is now well advanced. The new legislation will mirror the United Kingdom legislation with regard to detention and exclusion, but will make special provision to meet the different legal system of the island with regard to confiscation of the proceeds of terrorism.

Article 10

6. The States have adopted the Criminal Justice (Young Offenders) (Jersey) Law 1994, which provides new methods of dealing with offenders under the age of 21. The Law abolished sentences of Borstal training and the imprisonment of persons under the age of 21 and replaced those punishments with sentences of youth detention to be served in young offender institutions. Limitations are also laid down on the imposition of sentences of youth detention, most importantly that a court must be satisfied that no other means of dealing with the offender is appropriate.

Article 17

7. The States have adopted the Interception of Communications (Jersey) Law 1993, which introduced new controls on the interception of communications sent by post or by means of the public telecommunications system.

8. The States have adopted the Computer Misuse (Jersey) Law 1995, the purpose of which is to make provision for securing computer material against unauthorized access or modification and for connected purposes.

9. The States have adopted the Sexual Offences (Jersey) Law 1990, the purpose of which was to provide that homosexual acts in private between consenting male adults would no longer be a crime punishable by Jersey law. Subject to the approval of Her Majesty in Council, the States have also adopted the Sexual Offences (Amendment) (Jersey) Law 1994, the purpose of which is to lower the age at which males may consent to homosexual acts in private from 21 to 18.

Article 23

10. A comprehensive review of the existing law in Jersey relating to the dissolution of marriages has recently been completed and, as a result, the States are to be asked to approve the drafting of a new Matrimonial Causes Law, elements of which will more effectively ensure equality of rights for spouses during a divorce and enhance the protection afforded to the children involved.

Article 24

11. The States have adopted the Protection of Children (Jersey) Law 1994, the purpose of which is to prohibit the taking of indecent photographs of children and to penalize the possession, distribution, showing an advertisement of such indecent photographs.

12. Subject to the approval of Her Majesty in Council, the States have adopted the Adoption (Amendment No. 3) (Jersey) Law, 1994, to make further provision for the freeing of an infant for adoption and to give adopted persons access to their birth records and to relatives.

13. Work is currently under way to replace existing laws relating to education with comprehensive new legislation which will more effectively meet the current and future needs of the island and its Education Service.

Article 25

14. The States have adopted the Franchise (Amendment No. 5) (Jersey) Law 1995, the effect of which is to enfranchise any adult person, irrespective of nationality, who has been ordinarily resident in the island for a period of two years.

15. Copies of the following legislation, referred to above, are available for consultation in the Secretariat.

Wills and Successions (Jersey) Law 1993;

Criminal Justice (Young Offenders) (Jersey) Law 1994;

Interception of Communications (Jersey) Law 1993;

Computer Misuse (Jersey) Law 1995;

Sexual Offences (Jersey) Law 1990;

Sexual Offences (Amendment) (Jersey) Law 1994;

Protection of Children (Jersey) Law 1994;

Adoption (Amendment No. 3) (Jersey) Law 1994;

Franchise (Amendment No. 5) (Jersey) Law 1995.

II. STATES OF GUERNSEY

General

16. The general framework under which the civil and political rights recognized by the Covenant are protected within the Bailiwick of Guernsey are set out in full in the Profile submitted to Her Majesty's Government by the insular authorities in August 1994. For ease of reference a copy of the Profile is annexed. 1/ The comments contained in the general part of the three previous reports remain valid.

Article 1

Paragraph 1

17. In Guernsey, of the 57 members of the legislature, 45 are directly elected by universal franchise. The remaining 12 members are indirectly elected: there are two representatives of the States of Alderney and one representing each of the 10 Douzaines (parish councils) of the island. In Alderney all 12 members of the legislature are directly elected by universal franchise. In Sark 12 members of the legislature are directly elected by universal franchise. The remaining 40 members hold their seats by virtue of

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1/ Available for consultation in the Secretariat.

rights associated with the ownership of certain properties. In all three islands the system of government and method of election reflects the wish of the respective populations.

Paragraph 2

18. There are no factors or difficulties which prevent the free disposal of a person's natural wealth and resources during his lifetime. Certain restrictions apply to dispositions after death, the purpose of which is to protect the rights of the surviving spouse and children. No distinction of any kind is made except that on the island of Sark realty devolves to the eldest son.

Article 2

19. The States of Guernsey have resolved that the reform (Guernsey) Laws 1948 to 1993 be amended to allow aliens to vote in all island elections. When the amendment to the Law has been enacted any person aged 18 years or over and not subject to any legal disability who is ordinarily resident in Guernsey throughout the two years immediately preceding 31 October of the year of application, or who has been so resident for a period of five years in aggregate at any time preceding that date, will be entitled to be inscribed on the electoral roll.

Article 3

20. The States of Guernsey remain committed to adopt appropriate measures to ensure the equality of men and women in all spheres. In December 1993 the States resolved (inter alia):

1. To condemn discrimination against women in all its forms.

2. (a) To instruct States Committees to take all reasonable steps to identify and eradicate any discrimination against women in legislation or practice and to present proposals to the State in that regard as and when practicable.

   (b) To instruct the States Advisory and Finance Committee to report to the States on the progress being made in respect of Resolution 2 (a) not less than once every three years.

21. The table in annex 2 1/ indicates the increasing economic activity of females in Guernsey since 1971.

22. Of the members of the States of Guernsey 19.3 per cent are women. The comparative figures for the States of Alderney and Chief Pleas of Sark are 25 and 38 per cent respectively. Of the 59 Advocates of the Royal Court 10 (17 per cent) are women.

23. Numbers of pupils undergoing secondary education are almost equally divided between boys and girls (1,297 and 1,295 respectively). There are 563 boys and 367 girls undergoing secondary education in the private sector.

The difference is because the private school for boys is larger than the equivalent girls' school and the former also has boarding facilities whereas the girls' schools do not.

24. There are 115 males and 116 females undergoing full-time education at the Guernsey College of Further Education. No statistics are available regarding persons undergoing higher education off the island but there is no major difference between the numbers of males and females receiving such education.

Article 6

25. The infant death rate per 1,000 live births averaged 6.02 over the five-year period from 1989 to 1993. Out of 606 deaths in 1993, 10 were due to violent of accidental causes, including suicide. The last case of murder in the Bailiwick occurred in 1991.

Article 7

26. The Administration of Justice (Bailiwick of Guernsey) Law 1991 creates a specific offence of torture.

27. The comments set out in the first and second reports continue to apply.

Article 9

28. Places of detention in Guernsey are:

The prison (opened in 1989);

Detention cells at the police station (opened 1993);

Short-term (48 hours) customs detention cells;

Short-stay unit for adolescents in need of care;

The mental hospital.

The Government's Mental Health Services provide for treatment of a wide range of psychiatric and behavioural problems, with an open door policy prevailing. Whilst the vast majority of people attend for treatment on an informal basis, nevertheless a small number of patients considered to be a danger to themselves or others can be compulsorily detained under the Mental Treatment Law (Guernsey) 1939 (as amended). In 1994 there were 36 compulsory detentions, representing only 7.9 per cent of the total admissions to the Government's Mental Hospital.

Article 12

29. Earlier housing control legislation has been replaced by the Housing (Control of Occupation) (Guernsey) Law 1994. With regard to Alderney, the Housing (Control of Occupation and Development) (Alderney) Law, 1994 has been enacted.

Article 14

30. The comments set out in the first report continue to apply. Procedure with regard to juveniles is set out in the Juvenile Court (Guernsey) Law, 1989.

Article 17

31. The Computer Misuse (Bailiwick of Guernsey) Law, 1991 provides that a person is guilty of an offence if:

(a) He causes a computer to perform any function with intent to secure access to any program or data held in any computer;

(b) The access he intends to secure is unauthorized; and

(c) He knows at the time when he causes the computer to perform the function that that is the case.

Article 18

32. The Education (Guernsey) Law 1970 (sects. 10 and 11) makes provision regarding religious education and worship in island schools.

Article 22

33. The comments set out in the first report continue to apply. There are no political parties in the Bailiwick but no restrictions exist which would prevent the establishment thereof if it was desired to do so.

Article 23

34. The Domestic Proceedings and Magistrate's Court (Guernsey) Law, 1987 has been amended in 1992 and 1994 and copies of the amending legislation are appended. 1/ A second amendment approved in 1994 is awaiting royal sanction.

35. The Marriages (Amendment) (Guernsey and Sark) Law, 1994 provides for the solemnization of marriage in buildings which are neither religious buildings nor private houses, in addition to the two latter categories.

Article 24

36. The Children and Young Persons (Miscellaneous Provisions) (Guernsey) Law, 1991 makes provision regarding the attendance of a child or young person at court care proceedings and also deals with the unsworn evidence of a child and hearsay evidence in proceedings relating to care.

Article 25

37. Subsequent to the addendum to our third report, the states of Guernsey resolved to retain the office of Conseiller. The Reform (Election of Conseillers and Minor Amendments) (Guernsey) Law, 1993 provides for Conseillers to be elected by popular vote of people inscribed on the

electoral roll. Prior to the enactment of that Law Conseillers were elected by the States of Election (an electoral college). The Election of Conseillers (Participation of Alderney (Guernsey and Alderney)) Law, 1993 enables Alderney voters to participate in elections of the 12 Conseillers of the states of Guernsey.

38. The following annexes are available for consultation in the Secretariat:

1. Bailiwick of Guernsey Profile.

2. Economic activity by sex.

3. The Administration of Justice (Bailiwick of Guernsey) Law 1991.

4. The Housing (Control of Occupation) (Guernsey) Law 1994.

5. The Housing (Control of Occupation and Development) (Alderney) Law 1994.

6. The Juvenile Court (Guernsey) Law, 1989.

7. The Computer Misuse (Bailiwick of Guernsey) Law, 1991.

8. The Education (Guernsey) Law, 1970.

9. The Domestic Proceedings and Magistrate's Court (Amendment) (Guernsey) Law, 1992.

10. The Domestic Proceedings and Magistrate's Court (Amendment) (Guernsey) Law, 1994.

11. The Domestic Proceedings and Magistrate's Court (Amendment) (No. 2) (Guernsey) Law, 1994 - awaiting Royal Sanction.

12. The Marriages (Amendment) (Guernsey and Sark) Law, 1994.

13. The Children and Young Persons (Miscellaneous Provisions) (Guernsey) Law, 1991.

14. The Reform (Election of Conseillers and Minor Amendments) (Guernsey) Law, 1994.

15. The Election of Conseillers (Participation of Alderney) (Guernsey and Alderney) Law, 1994.

III. ISLE OF MAN

Articles 2 and 3

39. The Isle of Man does not discriminate between any of those categories of person referred to in article 2.1. Persons detained in penal establishments are governed by special rules for the preservation of custodial discipline and accordingly the Isle of Man Government applies to those persons such laws and procedures as it may from time to time deem necessary for this purpose.

40. The Isle of Man provides both a civil remedy and a criminal sanction in respect of violation of fundamental freedoms. These matters are specifically referred to in this report under each article. Legal proceedings can be taken in the Isle of Man against the Government and public authorities in the same manner as against private individuals. There are no restrictions on a person's right to recourse to the courts and legal aid is available both in civil and criminal cases for those unable to afford legal assistance.

Article 4

41. It has not so far been necessary for the island to derogate from its obligation under the Covenant pursuant to this article. Emergency powers in the Isle of Man are by a declaration of a state of emergency by the Governor in Council acting under the provisions of either the Emergency Powers Act 1936 to 1989 or Schedule 2 to the Home Affairs Board Act 1981 and by means of the Prevention of Terrorism Act 1990.

Article 5

42. Tynwald has taken no action aimed at the contravention of this article.

Article 6

Paragraph 1

43. The right to life is protected by both the civil and criminal law. If death is caused by negligence or by wilful intent in civil cases a right to damages arises and the relevant statutory authority is the Fatal Accidents Act 1981. Section 71 of the Criminal Code 1872 has now been restated in modern terms, consequent upon the Criminal Law Act 1981.

Paragraph 2

44. The Death Penalty Abolition Act 1993 abolished the death sentence and substituted imprisonment for life as the penalty to be imposed for an offence under any provision of an act of Tynwald which, immediately before the commencement of the Act, required the death penalty to be imposed on conviction for such an offence.

Paragraph 3

45. The Isle of Man is bound by the Convention on the Prevention and Punishment of the Crime of Genocide. Genocide is an offence in

the Isle of Man under the Genocide (Isle of Man) Act 1969 and is punishable by imprisonment for life if the offence consists of killing of any persons, or, if not, with imprisonment for not more than 14 years.

Paragraph 4

46. A pardon or commutation of sentence may be granted in all cases in exercise of the Royal Prerogative of Mercy by the Lieutenant Governor as representative of the Sovereign in the Isle of Man.

Paragraph 5

47. Since the passing of the Death Penalty Abolition Act 1993, sentence of death cannot be imposed by a court in the Isle of Man on any offender.

Article 7

48. The right not to be subjected to torture or to various other forms of ill-treatment is protected both by the criminal law and by the civil law and is in most respects similar to the position appertaining in the United Kingdom. The position of the police in the Isle of Man, including the question of police discipline, is generally the same as that in the United Kingdom.

Article 8

49. There is no slavery or servitude, nor any forced or compulsory labour as described in this article. The right of action for false imprisonment is available in the Isle of Man, as is the writ of habeas corpus. Imprisonment with hard labour may not be imposed (Criminal Justice Act 1963, sect. 1 (3)). Community Service Orders requiring a convicted person to perform unpaid work for not less than 40 or more than 240 hours can be imposed under the Criminal Law Act 1981.

Article 9

50. The legislative provisions relating to arrest in the Isle of Man are similar to those in the United Kingdom. Bail is discretionary under the provisions of the Bail Act 1952, and if a summary court refuses bail there is a right of appeal to a Deemster of the High Court.

51. Both writs for habeas corpus and actions for false imprisonment and malicious prosecution are maintainable in the Isle of Man.

Article 10

Paragraph 1

52. The functions of the Home Affairs Board have been transferred to the Department of Home Affairs. New prison rules were made in 1984 under the Prison Act 1965 and were amended in 1989.

Paragraph 2

53. Tromode House has been renamed "Cummal Shee" and is now run by the Department of Health and Social Security as an adolescent resource centre. The Criminal Justice (Penalties etc.) Act 1993 requires the Department of Home Affairs to, so far as practicable, keep male prisoners under the age of 21 years separate from those aged 21 or over. This Act also stipulates that a child or young person shall not receive a custodial sentence or be remanded in custody unless circumstances are so exceptional that it would not be possible to deal with him in any other way. A secure juvenile unit is provided for any child or young person who needs to be remanded or detained in custody.

54. The power to impose a sentence of Borstal training was revoked in the Isle of Man by the Prison and Youth Custody Act 1986 and replaced by a power to impose sentence of youth custody, which is served on the island.

Paragraph 3

55. Following the abolition of Borstal training in England and Wales, consequent upon the Criminal Law Act 1982 of Parliament, where a sentence of Borstal training is imposed on a young person in the Isle of Man it is treated in England and Wales as a youth custody sentence and he or she serves a youth custody service in England or Wales.

Article 11

56. Domestic law does not permit the imprisonment of any person on the ground of his failure to fulfil a contractual obligation.

57. A person may be imprisoned for default in payment of a debt only where the debt arose under a High Court judgement and where it is proved to the satisfaction of the court that the person making default has the means to pay, but refuses to pay (Imprisonment for Debt Act, 1928).

Article 12

58. There is no restriction on the free movement of persons in or out of the Isle of Man nor in relation to the choice of a place of residence. The provisions of the Immigration Acts 1971 and 1988 of the United Kingdom have been extended by Order in Council and the rules made thereunder apply, with the consent of Tynwald, to the Isle of Man. The reservation entered by the Government of the United Kingdom in respect of this article applies also to the Isle of Man.

Article 13

59. The law of the Isle of Man follows that of the United Kingdom in relation to the expulsion of aliens.

Article 14

60. The principal features and practices of the criminal justice system in the Isle of Man are the same as in the United Kingdom. All persons are equal

before the law and the determination of criminal charges is undertaken in accordance with the rights and guarantees set out in this article. Juveniles are dealt with in special juvenile courts, to take account of their special needs.

61. A system of appeals exists, the ultimate appellate court is the Judicial Committee of the Privy Council.

62. Miscarriages of justice may be compensated by civil action for damages in appropriate cases or by ex gratia payment. Applications for ex gratia payment would be dealt with in accordance with the article.

63. The principles of autrefois acquit and autrefois convict apply in the Isle of Man.

Article 15

64. The Isle of Man would not contemplate the introduction of retroactive criminal legislation.

Article 16

65. No legislation exists which would deprive a person of the protection of the law.

Article 17

66. Privacy, family, home and correspondence are protected under the law. Unlawful attacks on honour and reputation may give rise to an action for damages for defamation, usually as a civil wrong but sometimes as a criminal offence.

Article 18

67. The liberty of religious worship is unrestricted in the Isle of Man, save for the necessity to secure public order. Religious Instruction is a compulsory subject at schools, but parents have legal rights relating to children being excused from Religious Education and having access to denominational teaching of their preference (Education Act 1948, sect. 54). Teachers' rights regarding their involvement in the teaching programme are also safeguarded. The teaching programme is in accordance with the agreed syllabus recommended by the Religious Education Advisory Committee and approved by the Department of Education.

Article 19

68. There are no restrictions under this article, save in respect of statements which are in contempt of court, blasphemous, seditious, defamatory of another person, in breach of confidence or likely to provoke a breach of the peace.

Article 20

69. The position in the Isle of Man is similar to that referred to in the United Kingdom. The reservation entered by the Government of the United Kingdom in respect of this article applies also to the Isle of Man.

Article 21

70. There is no restriction on the exercise of the right of peaceful assembly. The Riot Act 1836 was repealed by the Criminal Law Act 1981. The Trade Unions Act (1991) places some restriction on picketing.

Article 22

71. There are no objections to complete freedom of association other than those concerned with public safety, national security and the prevention of crime. The Trade Unions Act (1991) and subsequent amendment Bill (1994) recognize the legitimate rights of workers to organize collectively and provide a legal framework within which trade unions can operate.

Article 23

72. The family law of the Isle of Man, namely the Matrimonial Homes Act 1971, the Judicature (Proceedings and Property) Act 1972, the Domicile and Matrimonial Proceedings Act 1974, the Judicature (Matrimonial Causes) Act 1976 and the Family Law Act 1991 have maintained Isle of Man family law in uniformity with that of the United Kingdom. The Domestic Proceedings Act 1983 of Tynwald, introduced reforms into the jurisdiction of the Magistrates' Court based on the Domestic Proceedings and Magistrates' Court Act 1978, of Parliament.

73. The Matrimonial Proceedings Act 1986 has abolished the common law actions for enticement and harbouring and the right to claim damages for adultery. The law relating to dissolution and nullity has been kept in line with that of England and Wales.

Article 24

74. The position of children in the Isle of Man is similar to that of children in the United Kingdom.

75. The Family Law Act 1991 makes provision with respect to parental responsibility for and guardianship of minors to make new provision as to the custody and maintenance of minors, to amend the law relating to declarations of statistics and for connecting purposes.

76. The British Nationality Act 1981, of Parliament, applies directly to the Isle of Man, as though the island were part of the United Kingdom, and the changes in nationality law effected by that Act apply directly to the Isle of Man.

Article 25

77. Democratic elections to the House of Keys have taken place since 1866. The right of women to vote in elections to the House of Keys was granted as far back as 1881. All persons over 18 can vote provided they do not suffer from any legal incapacity and are British subjects or subjects of the Republic of Ireland. Subject to certain statutory exceptions all persons are eligible for election and membership of the House of Keys. Elections to local authorities in the Isle of Man are conducted on similar principles to those for elections to the House of Keys.

78. House of Keys elections under the Representation of the People Acts have to be held at least once every five years and voting is by secret ballot.

79. The Civil Service has been set up under Act of Tynwald and is conducted under rules similar to those appertaining in the United Kingdom. Men and women are now equally liable for jury service following the Jury Act 1980, of Tynwald.

Article 26

80. The rule of law coupled with the rules of natural justice are upheld in the Isle of Man as fundamental principles of the Constitution.

Article 27

81. There are no restrictions on the enjoyment by any group of persons of the rights to culture, religion and language which are the subject of this article, other than those such as are referred to in article 22.2 of the Covenant relating to the right of association. Members of any group of persons are entitled to the same protection of law as applies to others.